

***Notice of Mortgage Payment
Change - Rule 3002.1***

Rule 3002.1



- Provides a process for a Chapter 13 debtor to cure a default and maintain payments on a home mortgage during the plan.
- Applies to claims that are (1) secured by a security interest in the debtor's principal residence; and (2) provided for under 1322(b)(5) of the Code in the debtor's plan.
- Effective December 1, 2011 (effective in Eastern District of Wisconsin upon CM/ECF 4.0-4.2 upgrade on December 5, 2011)

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This rule is for the protection of the debtor and the creditors' interests in the event of changes to the mortgage payments under the plan that affect Chapter 13 debtors. This rule provides for chapter 13 debtors to maintain payments on their principal residence.

This rule is added to aid in the implementation of 11 U.S.C. 1322(b)(5), which permits a chapter 13 debtor to cure a default and maintain payments on a home mortgage over the course of the debtor's plan. It applies regardless of whether the trustee or the debtor is the disbursing agent for post-petition mortgage payments. If the post-petition payment obligation changes over time, notice of any change in payment needs to be conveyed to the debtor and trustee. Timely notice of these changes will permit the debtor or trustee to challenge the validity of any charges, as needed, and to adjust the post-petition mortgage payments to cover any undisputed charges.

The process also provides a way for the mortgage creditor to inform the debtor of changes in post-petition payment obligations without fearing that they will violate the automatic stay.

Rule 3002.1



**Creditors must file three new events as
*supplements to the claim:***

- **Notice of Mortgage Payment Change**
- **Notice of Postpetition Mortgage Fees, Expenses, and Charges**
- **Response to Notice of Final Cure Payment**

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Creditors must file three new events as Supplements to the proof of claim:

Notice of Mortgage Payment Change - If there is a change in payment, including any change that results from an interest rate or escrow account adjustment, the creditor must file and serve on the debtor, debtor's attorney, and trustee a notice of mortgage payment change no later than 21 days before the payment of the new amount is due.

Notice of Postpetition Mortgage Fees, Expenses, and Charges - The rule also requires the creditor to file and serve on the debtor, debtor's attorney, and trustee an itemized notice of any post-petition fees, expenses, and charges that the creditor asserts are recoverable from the debtor or against the debtor's principal residence (e.g., inspection fees, late charges, or attorney's fees). This notice must be served within 180 days after the date on which the fees, expenses, or charges are incurred." The creditor will then file a Notice of Postpetition Mortgage Fees, Expenses and Charges. This notice details late charges, NSF fees, attorney fees, court cost, etc. that the creditor claims the debtor will be responsible for.

Response to Notice of Final Cure Payment – Must be filed and served on the debtor, debtor's attorney and trustee indicating (1) whether it agrees that the debtor has paid in full the amount required to cure the default on the claim; and (2) whether the debtor is otherwise current on all payments consistent with 1322(b)(5). This response must be filed and served within 21 days after service of the Chapter 13 trustee's Notice of Final Cure Payment.

Rule 3002.1

Three New Claim Events :

- Supplement to claim on claims register
- Not an attachment to the claim
- Not an amended claim
- Docketed as a claims event
- Not on the public docket report
- Will appear on the claims register history
- Will not have a document number

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Notice of Mortgage Payment Change

B 10 (Supplement 1) (12/11)

UNITED STATES BANKRUPTCY COURT

_____ District of _____

In re _____ Case No. _____
Debtor Chapter 13

Notice of Mortgage Payment Change

If you file a claim secured by a security interest in the debtor's principal residence provided for under the debtor's plan pursuant to § 1322(b)(5), you must use this form to give notice of any changes in the installment payment amount. File this form as a supplement to your proof of claim at least 21 days before the new payment amount is due. See Bankruptcy Rule 3002.1.

Name of creditor: _____ Court claim no. (if known): _____

Last four digits of any number you use to identify the debtor's account: _____

Date of payment change: _____
Must be at least 21 days after date of this notice

New total payment: \$ _____
Principal, interest, and escrow, if any

- B10 Supplement 1
Notice is filed as a “supplement” to the claim.
- Creditor will notify the debtor, debtor’s attorney, and trustee of any changes in the payment amount no later than 21 days before the new payment amount is due.

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Form 10 (Supplement 1) would be used by the holder of a home mortgage claim to provide the notice required by new Rule 3002.1(b) of any escrow account payment adjustment, interest payment change, and any other mortgage payment change while a chapter 13 case is pending.

Creditor shall file and serve the debtor, debtor’s atty, and trustee a notice of any change in the payment amount, including any change that results from an interest rate or escrow account adjustment, no later than 21 days before a payment in the new amount is due.

Notice of Postpetition Mortgage Fees, Expenses, and Charges (B10 Supplement 2)

B 10 (Supplement 2) (12/11)

Part 1: Itemize Postpetition Fees, Expenses, and Charges

Itemize the fees, expenses, and charges incurred on the debtor's mortgage account after the petition was filed. Do not include any escrow account disbursements or any amounts previously itemized in a notice filed in this case or ruled on by the bankruptcy court.

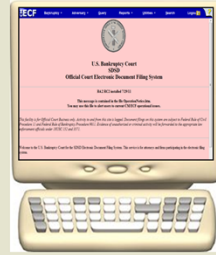
Description	Dates incurred	Amount
1. Late charges	_____	(1) \$ _____
2. Non-sufficient funds (NSF) fees	_____	(2) \$ _____
3. Attorney fees	_____	(3) \$ _____
4. Filing fees and court costs	_____	(4) \$ _____
5. Bankruptcy/Proof of claim fees	_____	(5) \$ _____
6. Appraisal/Broker's price opinion fees	_____	(6) \$ _____
7. Property inspection fees	_____	(7) \$ _____
8. Tax advances (non-escrow)	_____	(8) \$ _____
9. Insurance advances (non-escrow)	_____	(9) \$ _____
10. Property preservation expenses. Specify: _____	_____	(10) \$ _____
11. Other. Specify: _____	_____	(11) \$ _____
12. Other. Specify: _____	_____	(12) \$ _____
13. Other. Specify: _____	_____	(13) \$ _____
14. Other. Specify: _____	_____	(14) \$ _____

Form 10 (Supplement 2) would be used in chapter 13 cases to provide notice of the date incurred and amount of any postpetition fees, expenses, and charges.

Creditor shall file and serve the debtor, debtor's atty, and trustee a notice itemizing all fees, expenses, or charges that were incurred with the claim after the BK case was filed. Filed as a supplement to the proof of claim.

Notice shall be served within 180 days after the date on which the fees, expenses or charges are incurred.

Events Filed by the Mortgage Creditor



- **Notice of Mortgage Payment Change**
- **Notice of Postpetition Mortgage Fees, Expenses, and Charges**
- **Response to Notice of Final Cure Payment Rule 3002.1**

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Courts will be to create these three new events in their dictionary:

All three events appear by default on the Claims Register within the History section, NEF will be generated, No document number assigned (doc), Court users have the option to have this event displayed on the Docket Sheet and Docket Activity Report (checkbox)

Creditor shall file and serve on the debtor, debtor's attorney, and trustee a notice itemizing all fees, expenses, or charges that were incurred in connection with the claim after the bankruptcy case was filed and that the holder asserts are recoverable about the debtor or debtor's principal residence.

Response to Notice of Final Cure Payment stating that there is no official form for the response, but it is the third event that must be filed by the creditor as a supplement to the claim on the claims register. A description could be added: Within 21 days after service of the Chapter 13 trustee's Notice of Final Cure Payment, the creditor must file the Response to Notice of Final Cure Payment and serve it on the debtor, debtor's attorney and trustee indicating (1) whether it agrees that the debtor has paid in full the amount required to cure the default on the claim; and (2) whether the debtor is otherwise current on all payments consistent with 1322(b)(5). The statement must itemize the required cure or post-petition amounts, if any, that the creditor contends remain unpaid as of the date of the statement.

Additional New Events Regarding Rule 3002.1

Filed by the Trustee/Debtor's Attorney



- **Motion to Determine Mortgage Fees and Expenses**
- **Order on Motion to Determine Mortgage Fees and Expenses**
- **Motion to Determine Final Cure and Mortgage Payment Rule 3002.1**
- **Order on Motion to Determine Final Cure and Mortgage Payment**
- **Notice of Final Cure Mortgage Payment**

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Docketing Event

Rule 3002.1

“The holder of the claim shall file and serve on the debtor, debtor's counsel, and the trustee a notice of any change in the payment amount...”

Court has added this message to this event to help ensure the debtor is notified.

File a Claim action:

[05-10001 Jackson Charles](#)

Type: bk	Chapter: 7 v	Office: 1 (Pleasantville)
Assets: y	Judge: ls	Case Flag: CONVERTED, REAF

Is a Certificate of Service Included or Attached to the Document Currently Being Filed?

☒ Yes
☐ No

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Rule 3002.1 says “The holder of the claim shall file and serve on the debtor, debtor's counsel, and the trustee a notice of any change in the payment amount...”

Docketing Event

File a Claim action:

[05-10001 Jackson Charles](#)

Type: bk	Chapter: 7 v	Office: 1 (Pleasantville)
Assets: y	Judge: ls	Case Flag: CONVERTED, REAF

Notice of Mortgage Payment Change (Claim # 10) with Certificate of Service
Filed by Creditor Amarillo National Bank (Malin, Kate)

If filer responds “yes” the final docket text includes “with Certificate of Service”

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Docketing Event

ECF Bankruptcy ▾ Adversary ▾ Query Reports ▾ Utilities ▾

File a Claim action:

[05-10001 Jackson Charles](#)

Type: bk	Chapter: 7 v	Office: 1 (Pleasantville)
Assets: y	Judge: ls	Case Flag: CONVERTED, REAF

After Filing This Document, File the Certificate of Service Located in the XXX Event Category

If filer responds “no” this message is presented and
“Certificate of Service” is not included in the final docket text.

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Notice of Electronic Filing

ECF Bankruptcy Adversary Query Reports Utilities Search Logou

File a Claim action:

[11-10019 Savannah Black](#)

Type: bk	Chapter: 13 v	Office: 1 (Pleasantville)
Assets: y	Judge: ca	Case Flag: PinDue

U.S. Bankruptcy Court

SDSD

Notice of Electronic Filing

The following transaction was received from Liska, Deanna entered on 8/24/2011 at 11:36 AM CDT and filed on 8/24/2011

Case Name: Savannah Black

Case Number: [11-10019](#)

Document Number: [doc](#)

Docket Text:

Notice of Mortgage Payment Change (Claim # 1) Filed by Creditor Amarillo National Bank (Liska, Deanna)

- doc displays instead of a document number
- doc is hyperlink to the claims supplement document

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Mortgage Proof of Claim Attachment

B 10 (Attachment A) (12/11)

Mortgage Proof of Claim Attachment

If you file a claim secured by a security interest in the debtor's principal residence, you must use this form as an attachment to your proof of claim. See Bankruptcy Rule 3001(c)(2).

Name of debtor: _____ Case number: _____

Name of creditor: _____ Last four digits of any number you use to identify the debtor's account: _____

Part 1: Statement of Principal and Interest Due as of the Petition Date

Itemize the principal and interest due on the claim as of the petition date (included in the Amount of Claim listed in Item 1 on your Proof of Claim form).

1. Principal due (1) \$ _____

2. Interest due

Interest rate	From mm/dd/yyyy	To mm/dd/yyyy	Amount
____%	____/____/____	____/____/____	\$ _____
____%	____/____/____	____/____/____	\$ _____
____%	____/____/____	____/____/____	\$ _____
Total interest due as of the petition date			\$ _____

Copy total here (2) + \$ _____

3. Total principal and interest due (3) \$ _____

B10 Attachment A (Dec 1, 2011)

Pursuant to Rule 3001(c) (2), creditor *must* use this form as an attachment to their proof of claim on the debtor's principal residence.

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Form 10 (Attachment A) would be filed with the proof of claim as required by new Rule 3001(c)(2). The form includes a statement of the principal and interest due as of the petition date; a statement of prepetition fees, expenses, and charges; and a statement of the amount necessary to cure a default as of the petition date.

New form that the creditor must use as an attachment to their proof claim regarding the debtor's principal residence.

This new form must be completed and attached to the proof of claim secured by a security interest in the debtor's principal residence. The form, which implements Rule 3001(c)(2), requires an itemization of pre-petition interest, fees, expenses, and charges included in the claim amount as well as a statement of the amount necessary to cure any default as of the petition date. If the mortgage installment payments include an escrow deposit, an escrow account statement must also be attached to the proof of claim, as required by Rule 3001(c)(2)(C).

Summary



- Rule 3002.1 will take effect December 1, 2011 (Eastern District of Wisconsin implementation date December 5, 2011)
- Pertains to debtors' principal residence on Chapter 13 filings
- Two new B10 forms for supplemental claim events
 - B10 Supplement 1 – Notice of Payment Change
 - B10 Supplement 2 – Notice of Postpetition Mortgage Fees, Charges and Expenses
- B10 Attachment A, pursuant to Rule 3001(c)(2), is required to be filed with a proof of claim secured by the debtor's principal residence

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